

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

MATTHEW HARBER,)	
)	
Plaintiff)	
)	No. 3:15-0528
v.)	Judge Trauger/Brown
)	
STATE OF TENNESSEE, <i>et al.</i> ,)	
)	
Defendants)	

TO: THE HONORABLE ALETA A. TRAUGER

REPORT AND RECOMMENDATION

The Plaintiff has filed a motion for *habeas corpus* (Docket Entry 28). For the reasons stated below, the Magistrate Judge recommends that this motion (Docket Entry 28) be dismissed.

BACKGROUND

The Plaintiff in this matter filed a complaint which was allowed to proceed on a limited number of issues against the Davidson County Sheriff (Docket Entry 4). About the same time, the Plaintiff filed a petition for writ of *habeas corpus* in a case styled *Harber v. Davidson County Sheriff's Office*, Case 3:15-0534. After initial review Chief Judge Sharp dismissed the matter because the Petitioner had not shown that he had exhausted his state court remedies. To the extent that this present motion attempts to file a petition for *habeas corpus*, it appears to suffer from the same deficiency. The Plaintiff has simply failed to show that he has exhausted his state court remedies.

Accordingly, the Magistrate Judge recommends that to the extent this motion is a petition for *habeas corpus* it be dismissed for failure to show exhaustion of state remedies.

RECOMMENDATION

For the reasons stated above, the Magistrate Judge recommends that to the extent this is a petition for *habeas corpus*, it be denied without prejudice for failure to exhaust state court remedies.

Under Rule 72(b) of the Federal Rules of Civil Procedure, any party has **14 days** from receipt of this Report and Recommendation in which to file any written objections to this Recommendation with the District Court. Any party opposing said objections shall have **14 days** from receipt of any objections filed in this Report in which to file any responses to said objections. Failure to file specific objections within **14 days** of receipt of this Report and Recommendation can constitute a waiver of further appeal of this Recommendation. *Thomas v. Arn*, 474 U.S. 140 106 S. Ct. 466, 88 L.Ed.2d 435 (1985), *Reh'g denied*, 474 U.S. 1111 (1986).

ENTER this 6th day of July, 2015.

/s/ Joe B. Brown
JOE B. BROWN
United States Magistrate Judge